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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,128	10/18/2005	Susumu Kobayashi	F-8789	1361
28107 7590 08/21/2008 JORDAN AND HAMBURG LLP 122 EAST 42ND STREET SUITE 4000 NEW YORK, NY 10168				
EXAMINER				
TRAN, HANH VAN				
ART UNIT		PAPER NUMBER		
3637				
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08/21/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,128

Applicant(s)

KOBAYASHI, SUSUMU

Examiner

HANH V. TRAN

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/13/2008 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "said entire flange" lacks antecedent basis, thus indefinite.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 4-6, 8-10, 11, 13, 17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 6,217,139 to Henriott et al.

Henriott et al '139 discloses a rail combination structure comprising all the elements recited in the above listed claims including, such as shown in Figs 39-41, a metal rail 130 comprising a flange; a drawer; ribs (defined by mounting groove 132) at a side surface of the drawer, a body (such as shown in Figs 2A) houses the drawer, wherein the metal rail 130 is fixed to the drawer, the metal rail 130 slidably supports said drawer in the body, said flange extends along a longitudinal direction of the rail, and toward the drawer, said flange includes a first flange surface (defined as the upper horizontal portion of member 130 and a second flange surface (defined as the lower horizontal portion of member 130), at least a first of said ribs (defined as the upper horizontal portion of groove 132) abutting said first flange surface and at least a second of said ribs (defined as the lower horizontal portion of groove 132) abutting said second flange surface; wherein the first rib comprises a first support surface, said first support surface abuts said first flange surface, said first support surface extending in a direction along said first flange surface, and said first rib supports said flange through contact between said first support surface and said first flange surface, wherein said drawer comprises a screw-in-part, said screw-in-part is connected to said flange (via member 142) so as to fixedly hold said flange between said first rib and said second rib, said flange comprises a screw insertion aperture 140 configured such that said screw-in-part and said flange are connected with a screw 138 that extends from said screw-in-part through said screw insertion aperture 140, wherein said rail comprises a guide surface 37 which extends in a longitudinal direction of said rail and also extends in a direction toward said body, wherein said rail comprises a roller at a first end of said rail, said

roller being adjacent to said guide surface 37 (said roller being defined as the roller located between guide surface 37 and element 36 shown in Fig 41.)

6. Claims 1-2, 4-5, 7, 11-20 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,671,989 to Lautenschlager.

Lautenschlager discloses a rail combination comprising a metal rail 20 slidably supporting a drawer housed in a body (not shown), said drawer comprising synthetic resin (via member 22) and said rail 20 comprising a flange extending along a longitudinal direction of the rail 20, wherein said metal rail 20 is fixed to said drawer, said flange extends toward said drawer (such as shown in Fig 5), said drawer has ribs (defined by the slot providing within member 22, as shown in Fig 5) at a side surface of the drawer, said ribs vertically sandwiching said flange (Fig 5, a support surface provided at an upper end portion of a first of said ribs, said support surface extending along said flange, said first rib supporting a lower surface of said flange, wherein said flange comprises a first flange surface and a second flange surface, at least a first of said ribs abutting said first flange surface and at least a second of said ribs abutting said second flange surface (such as shown in Fig 5); wherein said entire flange extends toward said drawer, said flange is a planar member having a first flange surface and a second flange surface each of which abuts at least one of said ribs and wherein said first flange surface and each said second flange surface are separated by a thickness of said flange, said flange comprises said thickness, a width and a length, said thickness is smaller than said width and said length, said first and second flange surfaces are on opposite sides of said planar member.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henriott et al in view of USP 6,010,200 to Hays.

Henriott et al '139 discloses a rail combination comprising all the elements recited in the above listed claims including, such as shown in Figs 39-41, a metal rail 130 slidably supporting a drawer housed in a body, said rail comprising a flange, wherein the metal rail 130 is fixed to the drawer, said flange extends along a longitudinal direction of the rail, and toward the drawer, said drawer has ribs (defined by mounting groove 132) at a side surface of the drawer, said ribs vertically sandwiching said flange, a support surface (defined as the lower horizontal portion of groove 132) provided at an upper end portion of a first of said ribs, said support surface extending along said flange, and said first rib supporting a lower surface of said flange, wherein said drawer comprises a screw-in-part which is connected to said flange so that said flange of said rail is sandwiched between said ribs (such as shown in Fig 41.) The

difference being that Henriott et al fails to disclose the material of the drawer being synthetic resin.

However, Hays shows that it is well known in the art to have a drawer comprising synthetic resin in order to provide a drawer which is easy to clean, inexpensive to manufacture and very durable. Therefore, it would have been obvious to modify the structure of Henriott et al by having the drawer made out of a synthetic resin in order to provide a drawer which is easy to clean, inexpensive to manufacture and very durable, as taught by Hays, since both teach alternate conventional drawer structure, used for the same intended purpose, thereby providing structure as claimed.

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Henriott et al in view of USP 6,010,200 to Hays.

Henriott et al discloses all the elements as discussed above except for the drawer being synthetic resin.

However, Hays shows that it is well known in the art to have a drawer made out of a synthetic resin in order to provide a drawer which is easy to clean, inexpensive to manufacture and very durable. Therefore, it would have been obvious to modify the structure of Henriott et al by having the drawer made out of a synthetic resin in order to provide a drawer which is easy to clean, inexpensive to manufacture and very durable, as taught by Hays, since both teach alternate conventional drawer structure, used for the same intended purpose, thereby providing structure as claimed.

11. Claims 1-2, 4-5, 7, 9, 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 7223394 to Yutaka et al in view of USP 6,010,200 to Hays.

Yutaka discloses a rail combination comprising all the elements recited in the above listed claims including, such as shown in Figs 1 & 4, a metal rail 18 slidably supporting a drawer housed in a body (not shown), said rail fixed to said drawer and having a flange 18a extending toward said drawer, said drawer having ribs (defined by slot 11c₁) at a side surface of said drawer, said rib vertically sandwiching said flange 18a (such as shown in Fig 4), a support surface provided at an upper end portion of a first of said ribs, said support surface extending along said flange, and said first rib supporting a lower surface of said flange, said flange having a first flange surface and a second flange surface, at least a first of said ribs abutting said first flange surface and at least a second of said ribs abutting said second flange surface, said rail comprising a guide surface which extends in a longitudinal direction of said rail 18 and also extends in a direction toward the body, wherein said flange comprising a planar member having said first and second flange surfaces each of which abuts at least one of said ribs (such as shown in Fig 4), wherein said first flange surface and said second flange surface are separated by a thickness of said flange (such as shown in Fig 4), said flange 18a comprises said thickness, a width, and a length, said thickness is smaller than said width and said length. The difference being that Yutaka et al fails to disclose the material of the drawer being synthetic resin.

However, Hays shows that it is well known in the art to have a drawer comprising synthetic resin in order to provide a drawer which is easy to clean, inexpensive to manufacture and very durable. Therefore, it would have been obvious to modify the structure of Yutaka et al by having the drawer made out of a synthetic resin in order to

provide a drawer which is easy to clean, inexpensive to manufacture and very durable, as taught by Hays, since both teach alternate conventional drawer structure, used for the same intended purpose, thereby providing structure as claimed.

Response to Arguments

12. Applicant's arguments filed 5/13/2008 have been fully considered but they are not persuasive. In response to applicant's argument on page 9 that the portion of the elongate hat section 130 which is in contact with the inner surface of groove 132 is not a flange and that Henriott fails to disclose a flange which extends towards the drawer as recited in claims 1 and 4, the examiner respectfully takes the position that the claimed language of claim 4 fails to provide adequate structural limitations in describing the claimed elements in order to distinguish from the prior art of record, and that a portion of the hat section 130 meets the claimed limitation of a flange which extends towards the drawer.

13. In response to applicant's argument on page 10 that the groove 132 of Henriott is not ribs, again the examiner respectfully takes the position that the claimed language fails to provide adequate structural limitation in defining the structure of a rib in order to distinguish from Henriott.

14. Applicant's arguments with respect to claim 8 have been considered but are moot in view of the new ground(s) of rejection, i.e., misnumbered 142 has been removed.

15. In response to applicant's argument on page 11 regarding claim 10, the examiner respectfully takes the position that, as stated in the above claimed rejection, Henriott

discloses a roller at a first end of the rail, said roller positioned between members 36 & 37.

16. In response to applicant's argument on page 11-12 that the "Office Action has not identified any disclosed needs in Henriott et al. that would justify replacing the wood drawers of Henriott et al. with the resin drawers of Hays", the examiner respectfully takes the position that in order to establish a prima facie case of obviousness the primary reference is not required to disclose a need to modify itself, but rather a reason, teaching, motivation or generally knowledge of one ordinary skill in the art. In this case, Henriott is modified, in view of the synthetic resin drawer of Hays, in order to provide a drawer which is easy to clean, inexpensive to manufacture, and very durable.

17. In response to applicant's argument on page 12 that Hays is directed a plastic drawer and adapter rail, and that the adapter rail is necessary for the drawers to properly fit, and there is no reason for one of ordinary skill in the art to remove the rail and sliding mechanism of Henriott and replace it with the one from Hays in order to accommodate the plastic drawers of Hays in Henriott, the examiner respectfully takes the position that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In this case, Henriott is modified in view of Hays for the teaching of a drawer comprising synthetic resin.

18. In response to applicant's argument on page 12 that one of the functions of the elongate hat section 130 in Henriott is to cover the raw particle board surface of the drawer, such that if the plastic drawer is used in Henriott, there would be no reason to cover the raw particle board, the examiner respectfully takes the position that the reason mentioned by the applicant certainly is one of, but is hardly the only reason. And one of the reason for the "groove" and "hat section" of Henriott is to minimize the space required between the drawer and the body.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HANH V. TRAN whose telephone number is (571)272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT
August 18, 2008

/Hanh V. Tran/
Examiner, Art Unit 3637